



Moveable Transactions (Scotland) Act 2023 2023 asp 3

MOVEABLE TRANSACTIONS (SCOTLAND) ACT 2023

PART 1

ASSIGNATION

CHAPTER 1

ASSIGNATION OF CLAIMS, PROTECTION OF DEBTORS AND RELATED MATTERS

Assignment of claims

- 1 Assignment of claims: general
- 2 Assignment of claim subject to a condition
- 3 Transfer of claims
- 4 Assignment of claims: insolvency
- 5 Assignment in part
- 6 Limitations as to assignability: general
- 7 Claim in respect of wages or salary
- 8 Intimation of the assignment of a claim
- 9 Warrandice implied in the assignment of a claim

Protection of debtors

- 10 Protection of debtor who performs in good faith
- 11 Further provision as to protection of debtor
- 12 Performance in good faith where claim assigned cannot be transferred by intimation
- 13 Performance in good faith where claim assigned subject to condition
- 14 Asserting defence or right of compensation
- 15 Right to withhold performance until information as to assignment is provided

Accessory security rights

- 16 Accessory security rights

Abolition of certain rules of law

- 17 Abolition of certain rules of law

Saving

- 18 Saving as respects International Interests in Aircraft Equipment (Cape Town Convention) Regulations 2015

CHAPTER 2

REGISTER OF ASSIGNATIONS

Register of Assignations

- 19 The Register of Assignations

Structure and contents of the register

- 20 The parts of the register
21 The assignments record
22 The archive record

Registration process

- 23 Application for registration
24 Application for registration where claims assigned to different assignees
25 Registration
26 Verification statement

Effective registration

- 27 Effective registration of assignment document
28 Seriously misleading inaccuracies in the assignments record

Corrections

- 29 Correction of the assignments record
30 Correction of the assignments record: procedure
31 Proceedings involving the accuracy of the assignments record
32 Power to make provision about applications for corrections

Searches and extracts

- 33 Searching the assignments record
34 Admissibility and evidential status of search results
35 Extracts and their evidential status

Requests for information

- 36 Assignee's duty to respond to request for information

Entitlement to compensation

- 37 Liability of Keeper
- 38 Liability of certain other persons

Rules

- 39 Rules

CHAPTER 3

MISCELLANEOUS AND INTERPRETATION OF PART 1

Miscellaneous

- 40 Repeal of Transmission of Moveable Property (Scotland) Act 1862

Interpretation of Part 1

- 41 Interpretation of Part 1

PART 2

SECURITY OVER MOVEABLE PROPERTY

CHAPTER 1

PLEDGE

Pledge, secured obligation and encumbered property

- 42 Pledge
- 43 Secured obligation and encumbered property

Possessory pledge

- 44 Delivery

Statutory pledge

- 45 Constitutive document
- 46 Competence of individual acting as provider of a statutory pledge
- 47 Competence of creating statutory pledge over certain kinds of property
- 48 Creation of statutory pledge by registration: general
- 49 Creation of statutory pledge over added property
- 50 Creation of statutory pledge: insolvency

Property encumbered by statutory pledge: effect of transfer by provider

- 51 Property encumbered by statutory pledge: transfer by provider
- 52 Extinction of statutory pledge where dealings inconsistent with a fixed security
- 53 Acquisition in good faith from seller acting in ordinary course of business
- 54 Acquisition in good faith for personal, domestic or household purposes
- 55 Acquisition in good faith of motor vehicles

Rights relating to matrimonial or family home where relevant to a statutory pledge

- 56 Occupancy and other rights in family home following grant of statutory pledge

Assignment, amendment, restriction or extinction of statutory pledge

- 57 Assignment of statutory pledge
58 Amendment of statutory pledge
59 Restriction or discharge of statutory pledge

Ranking of pledges etc.

- 60 Ranking
61 Amendment of Companies Act 1985 and Insolvency Act 1986
62 Effect of diligence on pledge

Enforcement of pledge

- 63 The expression “pledge” in sections 64 to 77
64 Enforcement of pledge: general
65 Pledge enforcement notice
66 Whether court order required for enforcement
67 Secured creditor’s right to take possession of, or steps in relation to, corporeal property
68 Secured creditor’s right to sell
69 Sale: unencumbered acquisition
70 Secured creditor’s right to let
71 Secured creditor’s right to grant licence over intellectual property
72 Secured creditor’s right to protect and manage the property
73 Secured creditor’s right to appropriate
74 Appropriation with prior agreement
75 Appropriation without prior agreement
76 Appropriation: unencumbered acquisition
77 Application of proceeds from enforcement of pledge
78 Mandatory application for removal of an entry from the statutory pledges record

Liability for loss due to enforcement

- 79 Liability for loss suffered by virtue of enforcement

Service of documents for purposes of this Chapter

- 80 Service of documents for purposes of this Chapter

CHAPTER 2

REGISTER OF STATUTORY PLEDGES

Register of Statutory Pledges

- 81 The Register of Statutory Pledges

Structure and contents of the register

- 82 The parts of the register

- 83 The statutory pledges record
- 84 The archive record

Registration process

- 85 Order in which applications are to be dealt with
- 86 Application for registration of statutory pledge
- 87 Registration of statutory pledge
- 88 Application for registration of amendment
- 89 Registration of amendment
- 90 Verification statement as to registration of statutory pledge or amendment

Effective registration

- 91 Effective registration of statutory pledge
- 92 Effective registration of amendment to statutory pledge
- 93 Supervening inaccuracies: protection of third parties
- 94 Seriously misleading inaccuracies in the statutory pledges record

Duration

- 95 Power of Scottish Ministers in relation to duration of statutory pledge

Corrections

- 96 Application by secured creditor for correction of statutory pledges record
- 97 Correction of record in response to application under section 96
- 98 Demand that application for correction be made under section 96
- 99 Response to application for correction under section 98(6)
- 100 Correction of the statutory pledges record at instance of the court or the Keeper
- 101 Meaning of “inaccuracy” and how a correction is made
- 102 Correction of the statutory pledges record: procedure
- 103 Proceedings involving the accuracy of the statutory pledges record

Searches and extracts

- 104 Searching the statutory pledges record
- 105 Admissibility and evidential status of search results
- 106 Extracts and their evidential status

Requests for information

- 107 Secured creditor’s duty to respond to request for information
- 108 Acquisition of property confirmed by creditor not to be encumbered property

Entitlement to compensation

- 109 Liability of Keeper
- 110 Liability of certain other persons

Rules

- 111 Rules

CHAPTER 3

MISCELLANEOUS AND INTERPRETATION OF PART 2

Miscellaneous

- 112 Competence of creating an agricultural charge

Interpretation of Part 2

- 113 Interpretation of Part 2

PART 3

MISCELLANEOUS AND GENERAL

Computer system

- 114 Automated computer system

Registration of electronic documents

- 115 Competence of registration of electronic documents

Good faith

- 116 Good faith

Review of the Act

- 117 Review of Act

General

- 118 Regulations
119 Ancillary provision
120 Interpretation of Act
121 Commencement
122 Short title

Changes to legislation:

There are currently no known outstanding effects for the Moveable Transactions (Scotland) Act 2023.